370. MOTOR VEHICLES

370. MOTOR VEHICLES

A. Costs associated with motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner, or family members thereof, shall be excluded as allowable costs.

The cost of no more than three (3) motor vehicles, including vans or trucks, used for facility business shall be allowed up to the following limits:

Rate Year	Total Valuation Per Facility	Inflation Percentage
7/1/87 - 6/30/88	$15,585	3.9%
7/1/88 - 6/30/89	16,224	4.1%
7/1/89 - 6/30/90	17,051	5.1%
7/1/90 - 7/30/91	17,869	4.8%

These limits shall be adjusted annually for inflation according to the increase in the Consumer Price Index-urban for the most recent twelve (12) month period, as determined by the U. S. Department of Labor; provided however, that medically equipped motor vehicles, vans or trucks shall be exempt from the limitation. Limits for periods subsequent to 7/30/91 shall be promulgated by Reimbursement Letter utilizing the above-stated methodology.

TN # 96-10 Approved MAY 16 2001 Eff. Date 7-1-96
Supersedes
TN # 92-15

370. MOTOR VEHICLES

Costs exceeding this limit may be approved by the Department for Medicaid Services on a facility-by-facility basis upon demonstration by the facility that additional costs are necessary for the operation of the facility.

371. COMPENSATION OF OWNERS

A. PRINCIPLE. A reasonable allowance of compensation for services of owners is an allowable cost, provided the services are actually performed and are a necessary function.

B. DEFINITIONS

1. Reasonableness. Reasonableness requires that the compensation allowance:

a. Be an amount as would ordinarily be paid for comparable services by comparable facilities.

b. Depend upon the facts and circumstances of each case.

c. Be pertinent to the operation and sound conduct of the facility.

2. Necessary. Necessary requires that the function be that had the owner not rendered the services, the facility would have had to employ another person to perform the services.

371. COMPENSATION OF OWNERS

3. Owner. An owner under this section shall be defined as any person and related family members (as specified below) with a cumulative ownership interest of five (5) percent or more. Members of the immediate family of an owner, including husband, wife, father, mother, brothers, sisters, sons, daughters, aunts, uncles, and in-laws, shall be treated as owners for the purpose of compensation.

4. Compensation. Compensation means the total benefit received by the owner, including but not limited to: salary amounts paid for managerial, administrative, professional and other services; amounts paid by the facility for the personal benefit of the owner; the cost of assets and services received from the facility and deferred compensation.

C. APPLICATION. The cost of full-time owner-employees may be included as an allowable cost if the compensation is reasonably comparable to compensation for similar positions in the industry, but shall not exceed the applicable compensation limit for owner-administrator.

371. COMPENSATION OF OWNERS

371. COMPENSATION OF OWNERS

The compensation of part-time owner-employees performing managerial type functions shall be allowable to the extent that the compensation does not exceed the percent of time worked times eighty (80) percent of the applicable compensation limits for an owner-administrator.

Full-time owner-administrators and full-time owner-employees who perform non-managerial functions in facilities other than the facility with which they are primarily associated shall, for Medicaid purposes, be limited to reasonable compensation of not more than fourteen (14) hours per week in addition to the salary in the facility with which they are primarily associated. To be considered reasonable compensation, the owner shall prove performance of a necessary function and be able to document the time claimed for compensation. If managerial functions are performed in a non-primary facility by the full-time owner-administrator or full-time owner-employee of another facility, the cost of the services shall not be allowed for purposes of the Medicaid Program.

Compensation for services requiring a licensed or certified professional performed on an intermittent basis shall not be considered a part of compensation, nor shall it be limited to the application of the

371. COMPENSATION OF OWNERS

owner-administrator compensation schedule, if the professional services (e.g., legal services) would have necessitated the procurement of another person to perform the services.

D. COMPENSATION LIMITATION. Compensation for an owner-administrator shall be limited based on the total licensed beds of the facility in accordance with the following schedule:

LICENSED BEDS	MAXIMUM COMPENSATION
0-50	$33,500
51-99	38,500
100 - 149	43,000
150 - 199	51,300
200+	52,600

This schedule shall be in effect for the period from July 1, 1991 through June 30, 1992.

These compensation maximum shall be increased on July 1 of each year by the Inflation Factor Index for wages and salaries (Data Resources, Inc.). The Department for Medicaid Services shall utilize the moving average for the coming July 1 - June 30 fiscal year based on the latest inflation data available. The adjusted amounts shall be published annually in a reimbursement letter to all nursing facility providers.

371. COMPENSATION OF OWNERS

Perquisites routinely provided to all employees and board of director's fees shall not be considered in applying owner's compensation limits.

E. OTHER REQUIREMENTS

1. Sole Proprietorships and Partnerships. The allowance of compensation for services of sole proprietors and partners shall be the amount determined to be the reasonable value of the services rendered (not to exceed the amount claimed for these services on the annual cost reports submitted by the facility). The allowance shall be an allowable cost regardless of whether there is any actual distribution of profits or other payments to the owner. The operating profit (or loss) of the facility shall not affect the allowance of compensation for the owner's services.

2. Corporations. To be includable in allowable costs, compensation for services rendered as an employee, officer, or director by a person owning stock in a corporate provider shall be paid (by cash, negotiable instrument, or in-kind) during the cost reporting period in which the compensation is earned or within seventy-five (75) days thereafter. If payment is not made during this time period, the unpaid compensation

371. COMPENSATION OF OWNERS

shall not be included in allowable costs, either in the period earned or in the period when actually paid. For this purpose, an instrument to be negotiable shall be in writing and signed, shall contain an unconditional promise or other to pay a certain sum of money on demand or at a fixed and determinable future time, and shall be payable to order or to bearer.

3. Accrued Expenses Payable. To be includable in allowable costs, an accrued expense payable to an officer, director, stockholder, organization or other party or parties having control shall be paid (by cash, negotiable instrument, or in-kind) during the cost reporting period in which it has been incurred or within seventy-five (75) days thereafter. If payment is not made during this time period, the unpaid expense shall not be included in allowable costs, either in the period incurred or in the period when actually paid.

371. COMPENSATION OF OWNERS

4. Definitions

1. Control. Control exists if an individual or an organization has the ability, directly or indirectly, to influence, manage or direct the actions or policies of the provider regardless of ownership interest. When considering control by an individual or an organization, the inclusive ownership definition, as stated in Section III of this manual shall be applied.

2. Negotiable Instrument. The negotiable instrument shall be in writing and signed, shall contain an unconditional promise or order to pay a certain sum of money on demand or at a fixed and determinable future time, and shall be payable to order or to bearer.

372. ADMINISTRATORS COMPENSATION

372. ADMINISTRATORS COMPENSATION

A. PRINCIPLE. The reasonable cost of full-time nonowner administrators may be included as an allowable cost if it does not exceed the applicable compensation limit for an administrator.

B. COMPENSATION LIMITATION. Compensation for an administrator shall be limited based on total licensed beds of the facility in accordance with the following schedule:

LICENSED BEDS	MAXIMUM COMPENSATION
0-50	$ 44,300
51-99	50,000
100-149	56,000
150-199	66,900
200+	68,400

This schedule shall be in effect for the period from July 1, 1991 through June 30, 1992.

372. ADMINISTRATORS COMPENSATION

372. ADMINISTRATORS COMPENSATION

These compensation maximums shall be increased on July 1 of each year by the Inflation Factor index for wages and salaries (Data Resources, Inc.). This adjustment shall be computed and communicated in same manner as the adjustment to the owner-administrator compensation limits.

Perquisites routinely provided to all employees and the administrator shall not be considered a part of compensation.

380. OTHER COSTS

A. The cost of maintaining a chapel within the facility shall be allowable providing the cost is reasonable.

B. The Medicaid Program shall not reimburse for patient status evaluations which are required to be performed by any Peer Review Organization. However, the Medicaid Program shall reimburse for any administrative costs associated with this function.

C. The cost associated with facility license fees shall be allowed if proper documentation proves that the payment is a fee and not a tax.

D. The costs associated with political contributions and legal fees for unsuccessful lawsuits filed by the provider shall be excluded from allowable cost. Legal fees relating to lawsuits against the Cabinet for Health Services shall only be included as a reimbursable cost in the period in which the suit is settled after a final decision has been made that the lawsuit is successful or when otherwise agreed to by the parties involved or ordered by the court.

380. OTHER COSTS

E. The costs for travel and associated expenses outside the Commonwealth of Kentucky for purposes of conventions, meetings, assemblies, conferences or any related activities that shall not be allowable costs. However, costs (excluding transportation costs) for training or educational purposes outside the Commonwealth of Kentucky (except for owners or administrators) shall be allowable costs. Meetings per se shall not be considered educational; however, if educational or training components are included, the cost, exclusive of transportation shall be allowable. However, travel and associated expenses outside the Commonwealth of Kentucky shall not be allowable for owners and administrators for any reason.

F. The cost of corporate income tax preparation shall be an allowable cost.

G. Stockholder maintenance or servicing costs, such as preparation of an annual report, fees for filings required by the SEC etc., shall be allowable costs.

H. The cost of Board of Directors' fees shall be allowable, but shall be limited to five (5) meetings annually for single facility organizations and twelve (12) meetings annually

TN # 96-10 Approved MAY 16 2001 Eff. Date 7-1-96
Supersedes
TN # 90-6

380. OTHER COSTS

for multiple facility organizations and in addition, shall meet a test of reasonableness. Other costs associated with Board of Directors' meetings in excess of the above limitations on the number of meetings shall also be considered to be unallowable costs.

I. Profits or revenues of the parent organization which are from sources not related to the provision of Nursing Facility care shall not be considered as reductions in the cost to the Medicaid Program if the investment funds that generated these profits or revenues were not co-mingled with investment funds of the facility, or have been unco-mingled, if necessary, and the source of the funds can be identified according to generally accepted accounting procedures.

J. Employee leave time, if vested, shall be generally an allowable cost. For leave pay to be vested, there shall be no contingencies on the employee's right to demand cash payment for unused leave upon termination of employment. Facilities continue to have the option of accounting for leave on an accrual or cash basis. If a facility wishes to switch its accounting method to the accrual accounting basis, the accumulated carryover from the prior year(s)

380. OTHER COSTS

may be expensed as utilized, in accordance with the facility's personnel rules concerning the taking of leave. Concurrent with the expensing of the carryover, current vacation earned shall be accrued.

K. Costs resulting from anti-union activity shall be disallowed. Costs associated with union activity, unless prohibited by the National Labor Relations Act or unless the costs are unreasonable or unnecessary, shall be allowed.

L. In accordance with KRS 216.560(4), payment of penalties shall not be made from monies used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid.

M. The costs associated with private club memberships shall be excluded from allowable costs.

385. ANCILLARY COSTS

385. ANCILLARY COST

A. Reasonable cost of ancillary services provided as a part of total care are reimbursable, but may be subject to maximum allowable cost limits under Federal regulations.

Ancillary services include:

Physical therapy

Occupational Therapy

Speech Therapy

Laboratory procedures

X-Ray

Oxygen

Respiratory therapy (excluding the routine administration of oxygen)

385. ANCILLARY COSTS

385. ANCILLARY COST

Appropriate time and cost records of therapy services shall be maintained. All contracted services shall be documented by invoices which clearly delineate charges for the service(s) provided to include the patient who received the service, the date the service was provided, the length of time the service required, and the person providing the service. Supplies and equipment shall be itemized separately from treatment on these invoices.

B. DIRECT ANCILLARY COSTS. The direct ancillary costs of Physical, Occupational, Speech and Respiratory Therapy shall include only costs of equipment used exclusively for the specific therapy services, and the salary costs, excluding fringe benefits, of qualified therapy personnel who perform the service, or persons who perform the service under the on-site supervision of qualified therapy personnel.

TN # 96-10 Approved MAY 16 2001 Eff. Date 7-1-96
Supersedes
TN # 90-6

385. ANCILLARY COSTS

385. ANCILLARY COST

Personnel qualified for respiratory therapy direct ancillary cost purposes shall be those qualified individuals either licensed by the Kentucky Board of Respiratory Care or the Kentucky Board of Nursing . This definition applies without regard to whether they are facility or hospital-based, or are an independent contractor.

The cost of providing general nursing care, including the routine administration of oxygen, routine suctioning, or for standby services shall not be direct ancillary costs.

Acquisition, after December 1, 1979, of therapy equipment with a total value of $1,000 for each asset shall have prior approval by the Department for Medicaid Services in order to be recognized as an allowable cost by the Medicaid Program.

390. UNALLOWABLE COSTS

390. UNALLOWABLE COSTS

A. COSTS EXCLUDED FROM ALLOWABLE COSTS

1. Ambulance service
2. Private duty nursing
3. Luxury items or services
4. Dental services
5. Noncompetitive agreement costs
6. Cost of meals for other than patients and provider personnel
7. Dry cleaning of the patient's personal clothing
8. Drug costs
9. An allowance for a return on equity is not reimbursable.

COMMONWEALTH OF KENTUCKY

Cabinet for Health Services

Department for Medicaid Services

DEPARTMENT FOR MEDICAID SERVICES

NURSING FACILITY PAYMENT SYSTEM

PART IV

INTERMEDIATE CARE FACILITY AND MENTALLY RETARDED

TABLE OF CONTENTS

400. SCHEDULE OF IMPLEMENTATION

The reimbursement system outlined in this part of the Nursing Facility Reimbursement Manual shall not take effect until the July 1, 1991 rate setting. The reimbursement system in effect as of July 1, 1990 shall remain in effect for Intermediate Care Facilities for the Mentally Retarded (ICF - MR) through June 30, 1991 with the following exceptions:

A. Effective October 1, 1990, drugs shall no longer be treated as an ancillary for ICF - MR facilities.

B. Drugs shall be billed through the Pharmacy Program. The pharmacist shall bill Medicaid directly and the facility shall no longer act as a conduit for drug billings.

C. Those medical supplies previously billed as drugs which cannot be billed through the Pharmacy Program shall be treated as routine cost for services provided on or after October 1, 1990. Therefore, the Medicaid Program shall calculate an add-on per diem to each ICF - MR facility's existing Per Diem to allow for proper reimbursement of these medical supplies. In order to compute this add-on, each facility shall determine the cost of those medical supplies which were included in drug cost on the

400. SCHEDULE OF IMPLEMENTATION

Cost Report used to set the July 1, 1990 rate. These costs shall be submitted on a detailed schedule which indicates the amount of these costs by General Ledger account and the type of medical supply cost, previously considered to be ancillary that is included in each account. After these costs have been trended and indexed for inflation, a per diem rate shall be calculated and paid retroactively to October 1, 1990. This submission shall be subject to revision resulting from desk review and by field audits. This add-on shall have no effect on the normal rate computation or the Cost Incentive Index Factor (CIIF).

401. INTRODUCTION TO THE NEW PAYMENT SYSTEM

This payment system is designed for ICF-MR facilities which are providing services to Medicaid recipients and are to be reimbursed under the Department for Medicaid Services. Effective for costs used in rate setting as of July 1, 1991, except as specified in this manual supplement, policies and procedures as stated in the Department for Medicaid Services Nursing Facilities Reimbursement Manual Parts I and III shall be applicable to ICF-MR facilities.

The intent of this reimbursement system is to recognize the reasonable costs associated with the services and level of care provided by ICF-MR facilities.

402. IMPLEMENTATION REQUIREMENTS

Prior to May 16, 1991 all ICF MR Facilities shall submit a cost report utilizing the current Nursing Facility Cost Reporting format. If the facility would not normally be required to submit a cost report prior to May 16, 1990 the latest available cost report shall be submitted utilizing the Nursing Facility Cost Report forms.

If a desk review or audit of the most current cost report is completed after May 16, but prior to universal rate setting for the rate year, the desk reviewed or audited data shall be utilized for rate setting.

403. RATE COMPUTATIONS

The rates for ICF- MR facilities shall be computed in a manner similar to those for Nursing Facilities, with the following exceptions:

A. Case Mix Assessments shall not be part of the ICF-MR reimbursement system.

B. There shall be no quarterly adjustments to the Nursing component.

C. Trended and indexed per diems for the Nursing Services and All Other Cost components shall not be subject to an upper limit.

D. The Cost Savings Incentives for Nursing Services and All Other Cost shall not be available to ICF - MR facilities. ICF - MR facilities, if eligible, shall receive a Cost Incentive Investment Factor based on the following table:

403. RATE COMPUTATIONS

INTERMEDIATE CARE FACILITY -MENTALLY RETARDED
COST INCENTIVE AND INVESTMENT FACTOR SCHEDULE

Basic Per Diem Cost	Investment Factor* Per Diem Amount	Incentive Factor Per Diem Amount
$96.99 and Below	$ 1.38	$ .87
$97.00 - $102.99	1.29	.75
$103.00 - $108.99	1.18	.62
$109.00 - 114.99	1.06	.47
$115.00 - $120.99	.92	.31
$121.00 - $126.99	.76	.13
$127.00 - $133.49**	.53	--

*Available Only to For Profit Facilities
**There shall be no maximum payment limit for Intermediate Care Facilities for the Mentally Retarded

Facilities owned by the state or local governments shall not be eligible for the

Cost Incentive Investment Factor.

E. There shall be no Hold Harmless provision for ICF-MR facilities.

404. ADJUSTMENT TO PROSPECTIVE RATE

Upon request by a participating facility, an increase in the prospective rate shall be considered if the cost increase is attributable to one (1) of the reasons listed in Sections 110 or 111 of the Nursing Facility Reimbursement Manual.

The allowable amount of the cost increase shall be determined in accordance with the methodology prescribed in Section 110 and 111 of the Nursing Facility Reimbursement Manual.

405. OCCUPANCY LIMITATION EXCEPTIONS

If a facility is mandated by a court to reduce the number of beds, the occupancy limitations shall not be applied while alternative placement of residents is being attempted in order to comply with the court ruling. During the transition period, as defined by the court, the facility shall be allowed a rate adjustment, not more often than monthly, which utilizes the actual facility occupancy.

406. DEFINITION OF ROUTINE AND ANCILLARY SERVICES

The definitions of routine and ancillary services as stated in the Nursing Facility Reimbursement Manual shall be applicable to the ICF - MR facilities. However, psychological and psychiatric therapy shall also be considered as ancillary services for ICF-MR facilities.

407. LEASE OR RENT ARRANGEMENTS

All lease or rent arrangements occurring after 2/23/77 shall be limited to the owner's historical cost of ownership. For lease or rent arrangements occurring prior to 2/23/77, the Medicaid Program shall determine the allowable costs of the arrangements based on the general reasonableness of costs.

408. FINANCIAL DATA AND REPORTS -- NEW FACILITIES

408. FINANCIAL DATA AND REPORTS - NEW FACILITIES

Intermediate Care Facilities for the Mentally Retarded that have recently opened for business and do not have twelve (12) months of actual experience, or facilities newly participating in the Medicaid Program, shall be paid a rate negotiated between the Medicaid Program and the provider.

409. ALLOWABLE COST BASIS ON PURCHASE OF FACILITY AS AN ONGOING OPERATION

409. ALLOWABLE COST BASIS ON PURCHASE OF FACILITY AS AN ONGOING OPERATION

The allowable cost basis of a facility purchased as an ongoing operation after July 1, 1976, shall be determined in accordance with the policies outlined in the Nursing Facility Reimbursement Manual.

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TN # 90-6

410. INTEREST EXPENSE - EXCEPTION TO BORROWER-LENDER RELATIONSHIP

Exceptions to the general rule regarding interest on loans from controlled sources of funds (as specified in Part III of the Nursing Facility Reimbursement Manual) shall be made in the following circumstances. Interest on loans to facilities by partners, stockholders, or related organizations made prior to July 1, 1975, shall be allowable as cost, as determined by the Nursing Facility Reimbursement Manual, Part III, provided that the terms and conditions of payment of the loans have been maintained in effect without modification subsequent to July 1, 1975.

411, REIMBURSEMENT FOR SERVICES OF PHYSICIANS, DENTISTS AND HOSPITALS

If physician (excluding psychiatry) or dental services are provided by an employee or if physician, dental or hospital services are provided under an ongoing contractual arrangement, all reasonable costs including direct patient services shall be recognized as routine service facility costs and shall not be billed to the Medicaid Program directly by the physician, dentist, or hospital. This provision shall apply only to staff personnel while performing services which are in the scope of their employment or contractual agreement with the facility.